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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2007

CORAM :

THE HON'BLE MR. JUSTICE S.TAMILVANAN

A.S.No.84 of 1996

The Special Tahsildar
(Land Acquisition)
(Adi Dravidar Welfare)
Sangagiri, Salem. .... Appellant/Referring Officer

vs

V.Gopal .... Respondent/Claimant

Appeal filed against the Judgment and Decree dated 28.04.1994 made in L.A.O.P.No.6 of 1993 on the file of the Additional Subordinate Judge, Salem.

For Appellant : Mr.V.Ravi, Spl. G.P.(AS)

For Respondent : Mr.P.Jagadeesan

JUDGMENT

This appeal has been preferred by the respondent therein against the Judgment and Decree, dated 28.04.1994 made in L.A.O.P.No.6 of 1993 on the file of the Land Acquisition Tribunal / Additional Sub Judge, Salem.

2. It is not in dispute that the land in question is 1.23 acres, bearing S.No.147/1A5, situated in Poolampatty Village, Sangagiri Taluk, Salem District, which was acquired for the purpose of providing house sites for Adi Dravidars by the Special Tahsildar (Land Acquisition) (Adi Dravidar Welfare), Sangagiri, Salem, for which 4 (1) Notification under the Land Acquisition Act (herein after referred to as Act) was issued on 09.09.1987.

3. The appellant had decided the value of the land acquired at the rate of Rs.25,000/- per acre, based on the data sale deed, relating to the land in S.No.139/2A1. Both the acquired land in S.No.147/1A5 and S.No.139/2A1 are shown in the sketch prepared and marked as Ex.R.3. It is seen from the order that the respondent / claimant had claimed compensation at Rs.1,00,000/- per acre, for which he produced a sale deed,

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Ex.C.1, relating to the sale that had taken place on 18.08.1986, whereby one Venkatachalam purchased the land from one Shanmugam for a sum of Rs.18,500/-. As per the evidence of C.W.1, the said land is situate 1 ½ furlong away from the acquired land. According to him, it was sold at Rs.900/- per cent. In the cross-examination, he has admitted that the aforesaid land is situate nearby the road, whereas the acquired land is situate at about 1 ½ furlong away from the said land. The vendor to the sale deed, Ex.C.1 was also examined as C.W.2. He has also deposed evidence, in support of the claim of the respondent.

3. As found by the court below, the above said fact was not in dispute. Admittedly, the sale was taken place prior to the date of 4(1) Notification under the Land Acquisition Act. In the impugned order, the Tribunal has held that the data land stated by the appellant / respondent could not be taken into consideration on the ground that the same was interior and away from the road, where as it has considered the sale deed, Ex.C.1 for the purpose of deciding the market price of the acquired land. It has been stated in the award that the land relating to Ex.C.1 is a developed house site. On the basis of Ex.C.1, sale deed and also considering the relevant other factors, the market price of the acquired land was fixed by the Tribunal. Accordingly, held it reasonable that the market value of the acquired land at Rs.600/- per cent and Rs.60,000/- per acre and found it proper to deduct 25% of the value, while deciding the market value of the acquired land. Therefore, I am of the view that the reason assigned by the Land Acquisition Tribunal is just and proper and the same need not be interfered with in this appeal.

4. The Tribunal has further awarded a sum of Rs.10,000/- towards loss of earning, since the respondent / claimant, an agriculturist was in a compelling circumstance to loose his agricultural income. It has further held that the respondent / claimant was entitled to get Rs.15,000/- on the ground of changing his residence / place of avocation, for which there is no evidence available on record.

5. At paragraph 13 of the impugned order, the Tribunal has stated that the learned counsel appearing for the claimant has admitted that he was in a compelling circumstance to go out of the village, due to the land acquisition. In this regard, if there is any admission, it could be by the appellant / respondent, with regard to the same, but there is no such admission made by the appellant / respondent that the respondent / claimant herein had shifted his residence / or place of avocation, due to this land acquisition. Therefore, the finding of the Tribunal that there was an admission by the learned counsel for the claimant has no logical conclusion to be

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accepted. Therefore, as contended by Mr.V.Ravi, learned Special Government Pleader (AS) appearing for the appellant, I am of the considered view that the award of Rs.15,000/- made towards shifting of residence or place of avocation cannot be sustained, as there is no evidence available on record for the same. Even there is neither any pleading nor evidence to consider that the respondent / claimant had shifted his residence or place of avocation, on account of the Land Acquisition Proceedings. Hence, I am of the view that the amount of Rs.15,000/- awarded towards shifting of residence or place of avocation is not legally sustainable. With regard to the findings on other aspects, there is no need for this court to interfere with the impugned Judgment and Decree of the Tribunal. In other words, the respondent is entitled to the entire award amount, except amount of Rs.15,000/- ordered towards shifting of residence or place of avocation.

6. In the result, the appeal is partly allowed and accordingly, the appellant / respondent is directed only to pay compensation at the rate of Rs.600/- per cent and also Rs.10,000/- towards loss of earning with proportionate solatium, interest and costs. In the appeal, both the parties are directed to bare their own costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

tsvn

To

1.The Additional Subordinate Judge, Salem.

2.The Section Officer, V.R.Section, High Court, Madras.

one cc to Government Pleader SR.No.68250

one cc to Mr.P.Jagadeesan, advocate SR.No.67896

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